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SECTION: Business News

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HEADLINE: In-house Andersen adviser says document policy was new to him

BYLINE: By MARK BABINECK, Associated Press Writer

DATELINE: HOUSTON

BODY:

An Arthur Andersen LLP in-house adviser, who has been lauded throughout the firm's obstruction of justice trial, testified Thursday he learned of the firm's document retention policy last autumn after more than 30 years of employment.

The policy, which calls for destruction of extraneous documents and e-mails, lies at the heart of the government's case.

Adviser John Stewart said Andersen attorney Nancy Temple told him about the policy while the firm was dealing with a paper trail related to Enron paper entities called "Raptors."

Some memos created by the Enron audit team had incorrectly characterized opinions of Stewart's consultation arm, the Professional Standards Group. Temple told him last October the old, errant versions of the memos as well as the new, corrected versions would be kept, Stewart said.

"But any prior drafts ... should be deleted or discarded," Stewart said. "They became no longer needed because of the document retention policy."

The Justice Department argues Andersen's internal promotion of the document retention policy as Enron was sinking under a flood of accounting problems was too much of a coincidence. Andersen counters its employees were trying to properly organize audit-related materials and discard items extraneous to the account.

Stewart handed over a box of Enron paperwork to Temple - an event chronicled during the prosecution's case - though he was unable to remember whether he did it before or after the policy reminder. Andersen then entered the documents, which were not destroyed, into evidence.

Temple was among three witnesses who declined to testify when called by prosecutors.

Stewart also was troubled about whether or not to keep e-mail exchanges over the months with Enron auditors that, he said, would cast his group in a "favorable" light and the audit team unfavorably. He said he never considered possible SEC involvement in his decisions.

During the trial, which is in its fourth week, several Andersen employees have praised the accounting know-how of Stewart, who sits on an important industry committee which writes accounting rules.

Preceding Stewart was Michael Jones, a partner in Andersen's London office who worked on Enron matters there. Jones said he knew of no one instructing his office to destroy documents.

"I just remember (lead Enron auditor David Duncan) saying at some point we should make sure we're in accordance with the document retention policy," Jones said.

Jones said reams of excess documentation already were a problem at Andersen's cramped London office before Duncan's phone call in late October.

The Andersen indictment, unsealed March 14, says workers in Portland, Ore., London, Houston and the Chicago headquarters were instructed to destroy data. Wednesday, two Portland auditors echoed Jones in saying they, too, were not told to get rid of materials.

Under cross-examination by prosecutor Andrew Weissmann, Jones agreed Duncan's reminder about the policy seemed to carry a sense of urgency and that shredding and deletions increased last autumn.

"I don't know if it was in response to the call, but (policy compliance) efforts were accelerated," Jones said.

Earlier, a former Andersen auditor who never worked on the Enron account testified she consistently complied with the document retention policy and exercised it last autumn.

Emily Madison, who left Andersen last Friday to begin a job this week as partner with rival Ernst & Young, said she consulted a superior at the firm's Houston office last fall about what to do with documents from the account of a company that had left Andersen during the summer.

"Our policy is ... we have no need to retain anything" besides important audit-related documents, senior partner Michael Odom replied in an e-mail.

Prosecutors contend Odom, by stressing the retention policy, later encouraged Andersen workers on the Enron account to destroy documents.

Tempers in the courtroom, which have flared almost daily among lawyers and U.S. District Judge Melinda Harmon, remained cool until late Thursday afternoon during a discussion outside the jury's presence.

Harmon granted prosecutors the right to ask Andersen employees about their treatment by government officials during pretrial interviews. Lead defense attorney Rusty Hardin protested, calling the line of questioning "a commercial by the government" and an unfair tactic.

Jurors need to hear from witnesses that they were not threatened by the government, prosecutors said, because Hardin has openly implied Duncan pleaded guilty because of pressure by prosecutors.

"That's why it's relevant," Weissmann said.

Hardin called prosecutors "thin-skinned" and, borrowing terminology from Andersen's indictment, accused prosecutors of wrongdoing.

"The only 'corrupt persuader' in the courtroom is the government," Hardin said. "The fact they are the corrupt persuader doesn't mean they did anything mean or evil, but they did persuade someone to plead guilty who was not guilty."

Hardin hoped to complete his case by Friday. Prosecutors planned a short rebuttal case early next week, followed by closing arguments and jury deliberations.

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May 31, 2002, Friday

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HEADLINE: Order 'bothered' Andersen adviser

BYLINE: By Kristen Hays Associated Press writer

BODY:

HOUSTON -- An in-house Arthur Andersen LLP adviser was "bothered" by lawyer Nancy Temple's instruction last year that he destroy old drafts of memos noting disputes over whether Andersen should approve some problematic Enron Corp. accounting.

John Stewart, a partner for an Andersen group that advises auditors on sticky accounting issues, testified in the firm's obstruction of justice trial that he wanted to keep all the memos leading to resolution of how to deal with several financial vehicles on financial statements.

"I wanted a record of it in case somebody in the firm asked me," he said today, his second day on the witness stand.

He said Thursday that Temple told him of the firm's document retention policy in late September or early October last year.

At the time Stewart, who has been praised by several witnesses in the trial for his keen judgment, was embroiled in talks with Enron auditors over how to deal with the Enron stock-supported entities, called Raptors.

Partners on the Enron audit team had mischaracterized advice from members of Andersen's Professional Standards Group in months-old memos, Stewart testified.

He said Temple told him to keep those old memos and the newer corrected ones but said to discard the other drafts, under the policy's guidelines.

"I was bothered about doing that," Stewart said, because he wanted his group's role in working out the problems thoroughly documented.

Prosecutors contend that Andersen suddenly promoted the policy in October to get rid of potentially damaging documents as the Securities and Exchange Commission began investigating Enron's finances.

Andersen contends its employees adhered to a policy that required retention of final papers supporting audit conclusions while discarding unneeded material.

Temple was among three witnesses who declined to testify when called by prosecutors.

Outside of the jury's presence today, Denis McInerney, one of Andersen's lawyers, asked U.S. District Judge Melinda Harmon to allow him to question a records clerk about more than 1,600 boxes of Enron-related papers now stored at the firm's Houston office. He said jurors, completing their fourth week of hearing testimony, needed to know that despite witnesses telling of increased shredding in October, most papers were kept.

"It's critical the jury understand that context," McInerney said.

Prosecutor Andrew Weissmann said what was kept doesn't change the sudden increase in shredding in October. "It's comparing it to what was destroyed earlier, which was almost nothing," he said.

Harmon didn't rule on the request.

Also Thursday, Michael Jones, a partner in Andersen's London office who advised Enron auditors, testified that he ensured only duplicate or extraneous documents in his files were destroyed after getting a reminder of the policy.

He said former top Enron auditor David Duncan in late October instructed the staff to comply with the policy, and the small London office had stacks of excess documentation.

"I don't know if it was in response to the call, but (policy compliance) efforts were accelerated," Jones testified.

The Andersen indictment, unsealed March 14, says workers in Portland, Ore., London, Houston and the Chicago headquarters were instructed to destroy data.

Andersen attorney Rusty Hardin hoped to complete his case Friday. Prosecutors said they may present a short rebuttal case early next week, followed by closing arguments and jury deliberations.

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